

UNITED STATES DEPARTMENT OF JUSTICE
EXECUTIVE OFFICE FOR IMMIGRATION REVIEW
OFFICE OF THE CHIEF ADMINISTRATIVE HEARING OFFICER

UNITED STATES OF AMERICA,)	
Complainant,)	
)	
v.)	8 U.S.C. § 1324a Proceeding
)	Case No. 98A00002
IL POMODORO, INC.,)	
Respondent.)	Marvin H. Morse
		Administrative Law Judge

**ORDER DENYING COMPLAINANT'S MOTION
FOR DEFAULT JUDGMENT
(January 8, 1998)**

On August 26, 1996, the Immigration and Naturalization Service (INS) served a Notice of Intent to Fine (NIF) on Il Pomodoro, Inc. (Respondent or Il Pomodoro).

On September 25, 1997, INS filed a Complaint in the Office of the Chief Administrative Hearing Officer (OCAHO). Count I of the Complaint charges Respondent with knowingly hiring/continuing to hire one (1) named individual unauthorized for employment in the United States, and assesses a civil money penalty in the amount of \$950. Count II of the Complaint charges Respondent with failure to prepare and/or make available for inspection the employment eligibility verification form (Form I-9) for nineteen named individuals, and assesses a civil money penalty in the amount of \$460 per violation for a total of \$8,740. INS seeks a total civil money penalty of \$9,690. On September 23, 1996, Respondent through its attorney, Natale F. Carabello, Jr. (Carabello), timely requested a hearing.

On October 8, 1997, OCAHO issued a Notice of Hearing (NOH) which transmitted a copy of the Complaint, certified mail, to Carabello as counsel for Respondent. As indicated by the Postal Service return receipt delivered to this Office, Respondent received the NOH on October 17, 1997.

On November 17, 1997, Respondent timely filed its Answer to the Complaint.

On November 21, 1997, Complainant filed a Motion for Default Judgment.

On December 1, 1997, Respondent filed an Answer to the Motion for Default Judgment, correctly specifying October 17, 1997 as the date it received the NOH, with Complaint attached.

The Answer to the Complaint having been timely filed, the Motion is denied.

The parties are encouraged to again explore settlement of this dispute. I will expect Complainant to file a report with respect to settlement efforts, and the likely success of such efforts, by Friday, January 23, 1998. Absent some indicia of progress toward an agreed disposition between the parties, my office will, promptly after that date, arrange to schedule a telephonic prehearing conference to be held not later than mid-February.

Complainant is advised to monitor its docket to avoid filing of superfluous motions. Respondent is advised that its certificates of service would be more meaningful if they were to specify the names and addresses of the addressees in preference to the practice of merely reciting service "upon all parties or their counsel."

SO ORDERED.

Dated and entered this 8th day of January, 1998.

Marvin H. Morse
Administrative Law Judge

CERTIFICATE OF SERVICE

I hereby certify that copies of the attached Order Denying Complainant's Motion for Default Judgment were mailed first class, this 8th day of January, 1998 addressed as follows:

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